

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No. 407/2004.

Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

CORAM : A.P. Lavande,J
DATE : 6th October, 2006

Heard Shri S. U. Nemade, the learned counsel for
the appellants.

2. This appeal is preferred by the original plaintiffs against the Judgment and decree dated 18.3.2004 passed by the Additional District Judge, Pusad in Regular Civil Appeal No. 29/2002 partly allowing the appeal against the Judgment and decree dated 13.3.2002 passed by the Civil Judge, Jr. Dn., Umarkhed in Regular Civil Suit No. 46/92.

3. The appellants/ plaintiffs filed the above suit seeking declaration and injunction in respect of the suit property. Admittedly during the pendency of the suit the plaintiffs sold out part of the suit property. The trial Court dismissed the suit after considering the evidence led by the parties. The claim of the plaintiffs was based on the will as well as partition. The appellate Court partly allowed the appeal by granting relief of injunction against

defendants 1, 2 and 4 in so far as the suit property bearing gat no. 157 is concerned. The lower appellate Court also restrained defendant no.1 from obstructing joint possession of the plaintiff no.1 over survey no. 135 and dismissed the prayer of declaration sought for by the appellants/ plaintiffs.

4. Having perused the judgments impugned and having considered the submissions made by the learned counsel for the appellants, I do not find any perversity in the findings recorded by the lower appellate court. The findings recorded by the lower appellate court appear to be on proper appreciation of the evidence led by the parties. In any event, no substantial question of law is involved in the appeal. Hence, the appeal is rejected summarily.

Judge

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